

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 3287 OF 2022

Sau. Archana Asthapal Chakranarayan __ Vs. __ Divisional Commissioner and ors

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Mr. R.R.Baghel, Advocate for the petitioner.
 Mr. N.R.Patil, AGP for Respondent No.1
 Mr. K.S.Malokar, Advocate for Respondent No.3
 Mr. S.S.Deshpande, Advocate for Respondent No.4

CORAM : AVINASH G. GHAROTE, J.

DATE : 14/11/2022

1] On 22.8.2022, this Court after hearing the learned counsel for the parties has passed the following order :

Heard.

2. The order dated 14.12.2021, passed by the learned Collector, Washim under Section 36 of the Maharashtra Village Panchayats Act, (for short "M.V.P Act), has been challenged on the ground, that the disqualification of the petitioner from the post of Sarpanch on the ground that the meeting for the month of May 2021 was not held on account of the Village being effected by Covid-19 and the petitioner, not being conversant with an android mobile regarding the holding of a meeting online, were not found to be cause sufficient within the meaning of Section 36 of the M.V.P Act. It is contended, that the fact that the Village Ladegaon was effected by Covid-19 in 2021, is not a disputed position, as the impugned order, itself records (page 14) that during the period from 16.04.2021 to 05.06.2021 there were 40 positive patients in the Village and in the Z.P. School at Ladegaon, 13 patients were in isolation in the month of May 2021. It is also contended, that the provisions of Section 144 of the Code of Criminal Procedure, were imposed in the Village on account of applicability of the provisions of Disaster Management Act. It is contended, that this was cause sufficient for the petitioner/Sarpanch not to have the meeting in the month of May 2021. The chart at page 14 of the impugned order demonstrates, that meeting for all the other months have

been regularly held. The inability of the petitioner to understand the process of holding a meeting online, is also stated to be one of the ground indicating sufficient cause. It is therefore submitted, that since the cause indicated was sufficient, the learned Collector, ought to have accepted the same and refrained from passing of the order of disqualification.

3. *Mr. Deshpande, learned counsel for the respondent No.3, does not dispute the table in the impugned order. He also does not dispute the position, that in April 2021 and May 2021, there was insurgence of Covid-19 in the Village Ladegaon and for the duration from 16.04.2021 to 05.06.2021 there were approximately 40 Covid-19 positive patients in the Village and so also in the month of May 2021, 13 patients were kept in isolation in Z.P. School at Village Ladegaon. He also does not dispute, that Section 144 of Code of Criminal Procedure, was imposed in the Village on account of the applicability of the provisions of Disaster Management Act. His contention, is however this would not amount to sufficient cause, and therefore, the impugned order ought not to be disturbed. He further submits, that since the order was passed under Section 36 of the M.V.P. Act, a revision under Section 155 of the M.V.P. Act, was maintainable and the petitioner be relegated to the remedy, for which reliance is placed upon **Sau.Wandana Ramkrushna Neskar Vs. State of Maharashtra & Ors., 2009(2) ALL MR 730.***

4. *Mr. Patil, learned counsel for the petitioner however, by placing reliance upon **Shubhangi Anil Gawande and Ors. Vs. Additional Collector and Ors., MANU/MH/1617/2010 and Radhabai Vs. The Collector, Nanded and Ors., MANU/MH/1102/2022**, submits that since the order under Section 36 of the M.V.P. Act, is final, it would be susceptible to a challenge under Article 226 of the Constitution of India. He further invites my attention to the language of Section 155 of the M.V.P. Act and submits, that the powers of revision, as vested therein in the State Government are for the purpose of examining the record and proceedings of the Zilla Parishad, Panchayat Samiti or Standing Committee or of any Officer for the purpose of satisfying as to the legality or propriety of any order passed, and therefore, the impugned order, cannot fall within the four corners of the language of Section 155 of the M.V.P. Act. He further submits, that Section 155 of the M.V.P. Act, falls under Chapter 11 of the M.V.P. Act, which relates to over all control of the State Government over the actions of various Zilla Parishads and Panchayat Samities, and therefore, would not be available in the present case against the order under Section 36 of the M.V.P. Act.*

*5. Faced with this, Mr. Deshpande, learned counsel for the respondent No.4, seeks time to make appropriate research and place the position on record, considering which, list the matter **tomorrow** i.e. **on 23.08.2022**.*

2] Today, Mr. Deshpande, learned counsel for respondent No.4 has invited my attention to a notification dated 15.1.2021 issued by Respondent No.1/ State in which it has been stated that since Covid-19 is on the wane, the requirement of the various statutes regarding holding of meetings should be strictly followed. He therefore submits that there was no cause sufficient within the meaning of Section 36 of the MVP Act available to the petitioner for not holding the meeting in May 2021.

3] A perusal of the notification dated 30.4.2021 (page 36) issued by the Collector of Washim District indicates that there were a resurgence of Covid-19 in the district, as a result of which Section 144 of Cr.PC was imposed from 1.5.2021 to 15.5.2021 and so also various restrictions as indicated therein were also imposed. This position was continued by the subsequent communication dated 14.5.2021 for the duration 15.5.2021 till 20.5.2021 and thereafter till 27.5.2021 by the subsequent notification. This being the position and the admitted fact that there were around 45 covid-19 positive patients in the village of Ladegaon, it cannot be said that there was no sufficient cause for not holding the meeting for the month of May 2021.

4] It is an admitted position that the meetings for all the previous and subsequent months have been regularly held, considering which the order dated 14.12.2021 passed by the Respondent No.2 and the one dated 19.5.2022 passed by the Respondent No.1 are hereby quashed and set aside and the complaint filed by the Respondent No.4 is dismissed.

5] The petition is accordingly allowed. No costs.

JUDGE

Rvjalit